

REMARKS

Reconsideration of the application, as amended, is respectfully requested. Applicants acknowledge, with appreciation, the indication of allowable subject matter in claim 4, subject to filing of a terminal disclaimer.

The present application concerns an oil-containing spread composition which comprises olive oil and which has no perceivable olive oil odor. In claim 1, the spread is recited to contain at least 10 parts per million of olive oil originating polyphenols. Even higher levels of polyphenols are recited in claims 2 and 3. The Office cites a disclosure of a margarine made from unrefined olive oil, a patent teaching deodorization of an olive oil and a patent teaching debittering olive oil by conversion of oil based polyphenols to aqueous based ones. It is submitted that the Office has pointed to nothing in the cited art which would lead one of ordinary skill to a spread having olive oil with no perceivable olive oil odor yet having the recited levels of polyphenols.

Decio, EP 421 504 is cited as disclosing a margarine prepared from unrefined olive oil. Cheng et al., U.S. Patent No. 5,374,751 is cited as teaching deodorizing edible oil, including olive oil. It is not apparent that one of ordinary skill would include Cheng et al.'s olive oil in Decio's spread or that the spreads of the present invention would result.

The present specification indicates on page 11 that an average olive oil after being deodorized for one hour at the normal temperature of 255°C contains less than 10 ppm of polyphenols. In Table I, use of 234°C still results in a polyphenol content of 62 ppm. Most of the examples of Cheng et al. concerning olive oil utilize temperatures at 255°C or above. See, for example, Examples 1-3 . Example 4 talks about temperatures of about 240° to 260°C and includes in Table IV a deodorization temperature of 250°C. The Office points to no indication that Example 4 would inherently result in the

polyphenol amounts recited in the present claim. Moreover, even if it did, the Office points to no teaching in Cheng et al. which would lead one of ordinary skill to select such particular olive oils for use in the spread of Decio et al. Therefore, it is not clear that Cheng et al. achieved the olive oil recited in the present claims nor, even if they do, that one of ordinary skill would be given any reason by the prior art to select such particular olive oils for use in a spread.

Lal Ganguli et al., EP 849 353 is directed to olive oil with a high polyphenols content and a low bitterness. The olive oil is obtained by exposing olive oil to an emulsified water phase which exhibits enzymatic di-bittering activity and/or by emulsifying with a water phase with a high polyphenols content and evaporating the water phase. Lal Ganguli et al. explain at page 3, lines 39-40 that the debittering effect is obtained not by removal of the bitter compounds but by converting them to non-bitter compounds retaining the beneficial properties ascribed to polyphenols.

Lal Ganguli '353 published less than a year before the U.S. filing date of the present application. Even if the present application were considered not to be entitled to its priority dates and Lal Ganguli were considered prior art to the present invention, which the Office has not established, it is not apparent that Lal Ganguli remedies the deficiencies of the Decio/Cheng combination. The Office points to no teaching in Lal Ganguli that its olive oils should be used in the spreads nor does the Office point to any teaching by Lal Ganguli et al. of a spread which has no perceivable olive oil odour.

Although Applicants do not concede the propriety of the rejection, Applicants are amenable to filling a terminal disclaimer upon indication of allowable subject matter.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



Gerard J. McGowan, Jr.
Attorney for Applicant(s)
Reg. No. 29,412

/gjm
(201) 894-2297